



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of September 3, 2015 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of her employment plan (EP) pursuant to Section 9 of the Employment and Assistance Act (EAA) because she failed to demonstrate reasonable efforts to participate in her employment program.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The appellant is a single person with one dependent who has been in receipt of income assistance since August 2014.

The evidence before the ministry at the time of reconsideration consisted of the following:

- EP signed by the appellant on August 12, 2014 in which the appellant acknowledged that failure to comply with the conditions of her EP would render her ineligible for income assistance (IA), and in which she agreed to:
 - attend a first appointment with her Employment Program of BC (EPBC) contractor no later than August 24, 2014;
 - participate in EPBC programming regularly and as directed by the contractor;
 - work with the contractor to address any issues and complete all tasks assigned;
 - notify the contractor if she was unable to attend a session or when she started or ended employment; and
 - declare all income and report any changes to the ministry and attend all ministry appointments.
- October 1, 2014 letter from the ministry to the appellant informing her that she had not complied with the conditions of her EP, specifically that she had failed to participate in her employment program, attend her EPBC appointments, and complete assigned tasks.
- Request for reconsideration received by the ministry on August 27, 2015 in which the appellant wrote that she was experiencing health problems right now and had been unable to work since May 2015 because of the pain. She added that she had been looking for work on the internet and by handing out resumes, and that it is hard to find work in her city.

The reconsideration decision is summarized as follows:

- on October 6, 2015 EPBC reported that the appellant had not participated in programming or responded to multiple requests by her EPBC worker to make contact;
- on October 28, 2015 the appellant attended an EPBC meeting, and was advised that further non-compliance with the program would affect her eligibility for IA;
- on Jan 15, 2015 EPBC again reported that the appellant had not participated in the program despite multiple attempts to facilitate participation;
- on March 25, 2015 the appellant was again advised by the ministry that non-participation in her employment program would result in ineligibility for IA.
- the appellant attended two EPBC appointments during the period April 15 – April 29, 2015.
- on August 20, 2015 the EPBC contractor reported that the appellant had not made contact with their office since the end of April and had not responded to their letter of June 30, 2015 requesting contact. The appellant advised the ministry that she could not attend her employment program because she had been providing child care for her grandchild for the past 8 months. The ministry advised that the appellant was ineligible for assistance for failure to comply with the conditions of her employment plan.

In her Notice of Appeal dated September 10, 2015 the appellant stated that she had not been in good health since May 2015, that her muscles hurt and she was unable to do anything even at home. She added that the situation was temporary until she regained her health.

At the appeal the appellant tendered two documents as new evidence:

1. Doctor's certificate dated November 23, 2015 stating that the appellant suffers from

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inflammatory arthropathy and is unable to work commencing November 23, 2015 for an indefinite period.

2. Notice to Vacate dated November 20, 2015 evicting the appellant for non-payment of rent for the months of October and November 2015, eviction to take effect November 30, 2015.

The ministry objected to admission of the additional documentary evidence submitted by the appellant because neither document was before the ministry at the time of reconsideration.

During the hearing the appellant explained that due to her health problems she had to turn down 3 job offers during the month of October 2015. She did not tell her EPBC worker that she was experiencing health problems because initially her doctor thought that her only health problem was an iron deficiency. The doctor has not yet discussed employment restrictions with the appellant. The appellant added that she had an arrangement with the EPBC worker to “check in” concerning her job searches, which she did once or twice a month. She also attended at the EPBC office occasionally to use their computer or fax machine.

The panel determined that the doctor’s note (#1) and the appellant’s oral evidence concerning her health were admissible under EAA Section 22(4) as evidence in support of the information before the ministry at the time of reconsideration because they supported the appellant’s statement in her request for reconsideration that she was unable to participate in her employment program because she been experiencing health problems and it addressed the reconsideration decision finding that she had not provided medical evidence to support her health argument. The panel determined that the Notice to Vacate (#2) was not admissible as evidence in support of the information before the ministry at the time of reconsideration because the impending eviction is a new issue that was not raised by the appellant in her request for reconsideration and relate to non-payment of rent in the months following the reconsideration decision of September 3, 2015.

The ministry relied on the reconsideration decision and acknowledged that the dates October 6, 2015 and October 28, 2015 in Appendix A – Summary of Facts were a typographic error. The correct dates are October 6, 2014 and October 28, 2014.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of September 3, 2015 in which the ministry denied further income assistance to the appellant for failure to comply with the terms of her employment plan (EP) pursuant to Section 9 of the EAA because she failed to demonstrate reasonable efforts to participate in her employment program.

The relevant legislation is as follows:

EAA:

Employment plan

- 9** (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, when required to do so by the minister, must
- (a) enter into an employment plan, and
 - (b) comply with the conditions in the employment plan.
- (3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to
- (a) find employment, or
 - (b) become more employable.
- (4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person
- (a) fails to demonstrate reasonable efforts to participate in the program, or
 - (b) ceases, except for medical reasons, to participate in the program.

The appellant argues that she was unable to participate fully in the employment program because she had health problems beginning in May 2015 that took a long time to diagnose, and during the period January – August 2015 she provided child care for her grandchild. She also argues that she had looked for jobs via the internet and submitted resumes, and that jobs were hard to find in her city.

The ministry argues that the appellant did not make a reasonable effort to participate in her EP between August 24, 2014 and August 20, 2015 despite repeated requests by her EPBC worker to attend appointments and to respond to contact requests. Specifically:

- the appellant did not attend at the EPBC office until 9 weeks after August 24, 2014, which was the date by which she was required to make contact after signing the EP;
- on January 15 and March 25, 2015 the EPBC office again reported the appellant's failure to participate in her employment program;
- between April 30 – August 20, 2015 the appellant did not make contact with the EPBC office.

The ministry also argues that on several occasions the appellant was reminded that failure to participate in her employment program would result in ineligibility for IA. As well, the ministry

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argues that the appellant claims that she did not attend her employment program appointments because she was providing child care for her grandchild during the first 8 months of 2015.

Panel Decision

EAA Section 9 (1) states that a recipient of income assistance must comply with the conditions of the employment plan in order to be eligible for assistance. Subsection (4) specifies that if an employment plan includes a condition requiring a person to participate in a specific employment-related program that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program or ceases, except for medical reasons, to participate.

The appellant testified that she had made an arrangement with her EPBC worker to call in periodically and provide an update on her job searches, and that she did so once or twice each month. The panel notes that the appellant did not make these assertions in her request for reconsideration or in her notice of appeal, in spite of the fact that the ministry had conveyed to her its concern that she was not demonstrating sufficient efforts to participate in her employment program.

In comparing the appellant's conflicting evidence to the evidence of the ministry, which lists several instances in which the EPBC worker reported the appellant's non-participation to the ministry and in particular the EPBC report that the appellant had not been in contact with EPBC at all between April 30 and August 20, 2015 the panel accepts the ministry's evidence as more credible than the appellant's. Therefore the panel finds that the ministry reasonably determined that the appellant failed to make reasonable efforts to participate in her employment program by failing to participate as directed by her EPBC worker and by failing to notify her EPBC worker when she was unable to attend.

The appellant also asserts that she was unable to participate fully in her employment program because she began to experience health problems in April 2015. Her health problems are attested to in her doctor's note dated November 23, 2015, but the note does not provide any medical evidence to support the appellant's position that she was unable to participate in her employment program for medical reasons during between April and August 2015. The appellant did not request a change in her employment program for medical reasons at any point during the period August 24, 2014 – August 24, 2015. She also provided child care for her grandchild during the first eight months of 2015. The panel therefore finds that the ministry reasonably determined that the appellant failed to provide sufficient evidence of her inability to participate in her employment program for medical reasons between August 2014 and August 2015.

In conclusion, the panel finds that the decision of the ministry to deny further income assistance to the appellant for not complying with her employment plan because she failed to demonstrate reasonable efforts to participate in the employment program between August 24, 2014 and August 24, 2015 was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.